



U.S. Fish & Wildlife Service

PROPOSED CANDIDATE CONSERVATION AGREEMENT

With Assurances for
Columbian Sharp-tailed Grouse



Ron Spomer

*BETWEEN THE OREGON DEPARTMENT OF FISH AND WILDLIFE
AND THE U.S. FISH AND WILDLIFE SERVICE, WALLOWA COUNTY, OREGON*

SNAKE RIVER BASIN OFFICE

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U.S. Fish & Wildlife Service

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August 2, 2000
Volume 65, Number 149
Page 47513-47514
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Title: *Availability of an Environmental Assessment and Receipt of an Application for a permit to Enhance the Survival of the Columbian Sharp-tailed Grouse in Wallowa County, Oregon Through a Candidate Conservation Agreement With Assurances*

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U.S. Fish & Wildlife Service

Proposed Candidate Conservation Agreement with Assurances for Columbian Sharp-tailed Grouse between the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service

The proposed Candidate Conservation Agreement with Assurances, for Columbian sharp-tailed grouse, between the Oregon Department of Fish and Wildlife (ODFW) and the U.S. Fish and Wildlife Service (Service) follows this introductory page. The agreement is intended to support ODFW's sharp-tailed grouse reintroduction efforts in Wallowa County, Oregon. Also enclosed for review and comment is an Environmental Assessment, written by the Service, on approval of the agreement.

In 1995, the Service received a petition to list the Columbian sharp-tailed grouse under the Endangered Species Act. Subsequently, on October 26, 1999, the Service found that listing the species may be warranted, and initiated a review of the species' status. The ODFW and Service have developed the proposed Candidate Conservation Agreement with Assurances to conserve Columbian sharp-tailed grouse in Wallowa County, including providing interested private landowners with financial and other incentives to provide conservation measures on their property. Participating landowners could also receive regulatory assurances, under the Endangered Species Act, through a permit that would be issued by the Service.

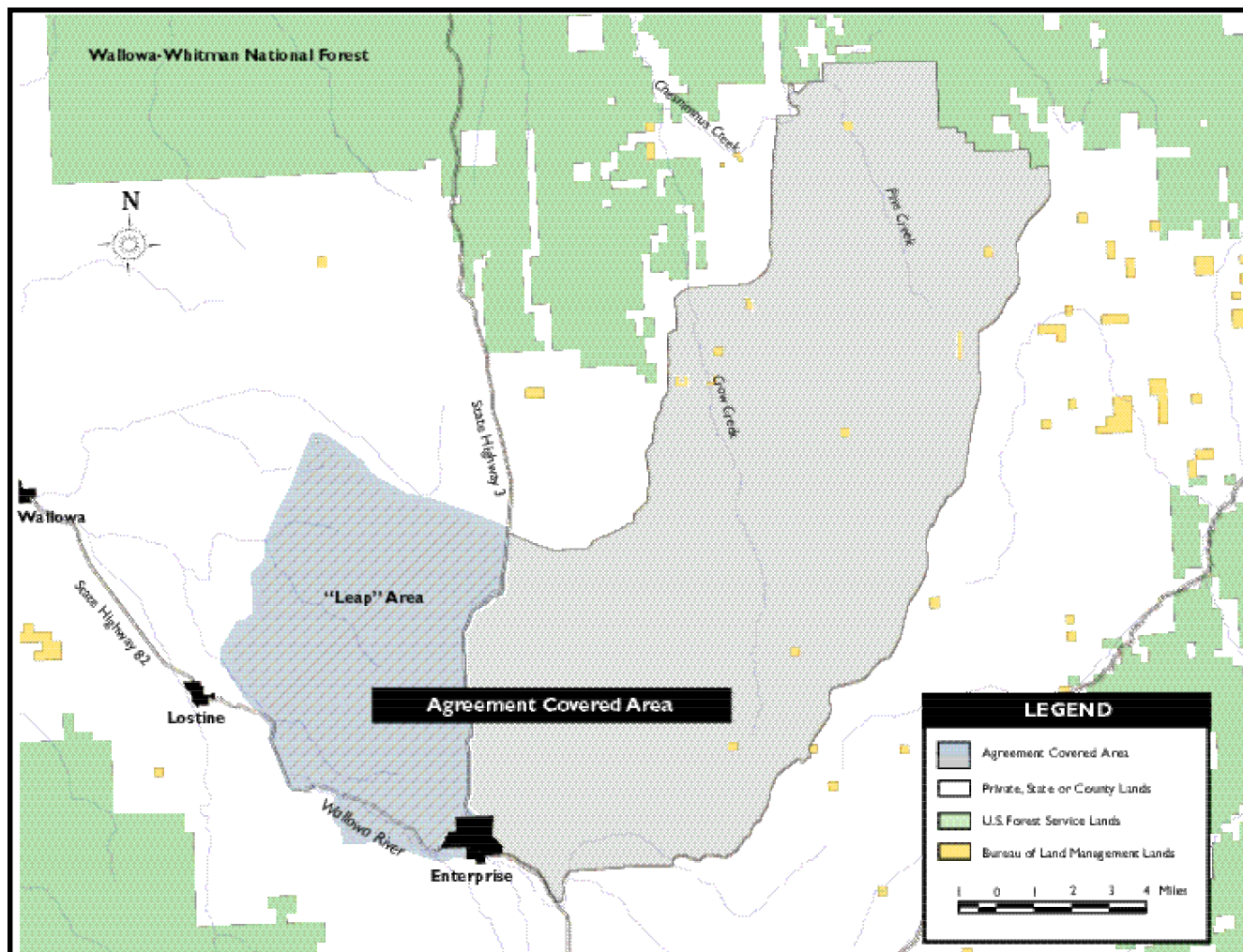
A 30-day public comment period begins with the publication of a Notice of Availability for this Candidate Conservation Agreement with Assurances and the Environmental Assessment, in the *Federal Register* on August 2, 2000. Please send your written comments to:

Dennis Mackey
U.S. Fish and Wildlife Service
Snake River Basin Office
1387 South Vinnell Way, Room 368
Boise, Idaho, 83709
FAX: (208) 378-5262

We appreciate your taking the time to review this Candidate Conservation Agreement with Assurances and Environmental Assessment. If you have any questions or would like additional information, please call Dennis Mackey at (208) 378-5267.

Sincerely,
Robert G. Ruesink
Supervisor, Snake River Basin Office

Figure 1.
Columbian Sharp-tailed Grouse Agreement Covered Area
Wallowa County, Oregon



Candidate Conservation Agreement with Assurances for Columbian Sharp-tailed Grouse between the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service

This Agreement, effective and binding on the date of the last signature below, is between the Oregon Department of Fish and Wildlife (ODFW) and the U.S. Fish and Wildlife Service (FWS). Participating property owners may also be included under the Agreement by signing a Certification of Inclusion (Appendix A). Administrators of this Agreement are:

ODFW: Brad Bales
Game Bird Management Program
2501 SW 1st Ave.
Portland, Oregon 97207
(503)872-5260 (Phone)
(503)872-5269 (Fax)

FWS: Supervisor, Snake River Basin Office
1387 South Vinnell Way, Room 368
Boise, Idaho 83709
(208)378-5243 (Phone)
(208)378-5262 (Fax)

I. Authorities and Purpose

Sections 2, 7, and 10 of the Endangered Species Act of 1973, as amended (ESA), and the Fish and Wildlife Coordination Act, allows the FWS to enter into this Agreement. Section 2 of the ESA states that encouraging parties, through Federal financial assistance and a system of incentives, to develop and maintain conservation programs is a key to safeguarding the Nation's heritage in fish, wildlife, and plants. Section 7 of the ESA requires the FWS to review programs that they administer and to utilize such programs in furtherance of the purposes of the ESA. By entering into this Agreement, the FWS is utilizing its Candidate Conservation Programs to further the conservation of the Nation's fish, wildlife, and plants. Lastly, section 10(a) of the ESA authorizes the issuance of permits to "enhance the survival" of a listed species.

The purpose of this Agreement is for the ODFW and the FWS to implement conservation measures for Columbian sharp-tailed grouse (*Tympanuchus phasianellus*) in Wallowa County, northeast Oregon, in support of ODFW's ongoing efforts to reintroduce the species to areas that it historically occupied. The conservation measures would be implemented by the ODFW, FWS, and by Participating Landowners, and would generally consist of continued implementation of ODFW's sharp-tailed grouse reintroduction program and management of sharp-tailed grouse habitat. Consistent with the FWS's Candidate Conservation Agreement with Assurances Final Policy (USFWS and NMFS 1999), this Agreement is intended to facilitate the conservation of Columbian sharp-tailed grouse by giving the State of Oregon and private landowners incentives to implement conservation measures by providing landowners with regulatory certainty concerning land use restrictions that might otherwise apply should Columbian sharp-tailed grouse become listed under the ESA. This Agreement could be used as a model for similar agreements for Columbian sharp-tailed grouse in other areas of Oregon.

II. Background and Description of Existing Conditions

The Columbian sharp-tailed grouse is one of six recognized subspecies of sharp-tailed grouse that occur in North America (Miller and Graul 1980). Historically, the Columbian sharp-tailed grouse range extended westward from the continental divide in Montana, Idaho, Wyoming, and Colorado to northeastern California and eastern Oregon and Washington; southward to northern Nevada and central Utah; and northward through central British Columbia.

Columbian sharp-tailed grouse were once more abundant throughout their range where suitable habitats occurred (Hart et al. 1950; Buss and Dziedzic 1955; Washington Division of Fish and Wildlife (WDFW) 1995). Excessive hunting in the mid- to late-19th century is thought to be a major contributing factor to the early extirpation of local populations and the initial reduction of the subspecies' range (Hart et al. 1950). Since the turn of the century, the conversion of native habitats to crop production and their degradation as a result of livestock grazing are thought to be the primary factors in further population declines and range reduction (Hart et al. 1950; Buss and Dziedzic 1955; Miller and Graul 1980; Marks and Marks 1987; Braun et al. 1994; WDFW 1995; McDonald and Reese 1998). Columbian sharp-tailed grouse were extirpated from California in the 1920s, Nevada in the 1950s, and Oregon in the 1960s (Miller and Graul 1980).

Columbian sharp-tailed grouse occupy less than 10 percent of their former range in Idaho, Montana, Utah, and Wyoming; 10-50 percent in Colorado and Washington; and 80 percent or more in British Columbia (USFWS 1999). The range-wide population estimate for the subspecies in 1979 was approximately 60,000-170,000 individuals, with roughly 60-80 percent occurring in British Columbia (Miller and Graul 1980). A current estimate is approximately 34,000-70,000 individuals, with roughly 50-70 percent occurring in Idaho (USFWS 1999).

Three metapopulations of Columbian sharp-tailed grouse currently likely exist—one in northwestern Colorado/south-central Wyoming totaling approximately 6,000-8,000 birds, one in southeastern Idaho/northern Utah totaling approximately 20,000-50,000 birds, and one in central British Columbia totaling 4,500-10,000 birds (USFWS 1999). To varying degrees, other population centers are comprised of both interacting and isolated local populations. These populations include approximately 600 birds in south-central Idaho/northeastern Nevada, a small population of about 50 birds in northeastern Oregon (which are covered by this Agreement), approximately 700 birds occur in scattered small populations in north-central Washington, and two small populations with about 50 birds each in Montana (USFWS 1999).

In 1995, the FWS received a petition to list the Columbian sharp-tailed grouse under the ESA. On October 26, 1999, the FWS found that listing the species may be warranted (USFWS 1999), and initiated a review of the species' status.

Sharp-tailed grouse males employ courtship displays in the spring to attract females to central "dancing grounds," called leks. Established leks may be used for many years, although their exact locations may shift over time and smaller satellite leks often form in the vicinity of historic leks. Females typically nest and rear their broods within 1.6 kilometer (km) (1.0 mile (mi)) of an active lek (Saab and Marks 1992; Giesen and Connelly 1993). Spring-to-fall home range sizes of Columbian sharp-tailed grouse are relatively small, generally less than 2.0 square km (0.8 square mi), and the areas used are usually within a few kilometers of a lek. Seasonal movements to wintering areas from breeding grounds are typically less than 5 km (3.1 mi) (Giesen and Connelly 1993). The area within 2.5 km (1.6 mi) of a lek is believed to be critical to the management of Columbian sharp-tailed grouse and this area should contain, or provide access to, suitable wintering habitats (Saab and Marks 1992; Giesen and Connelly 1993). Because of their importance, leks

(including their surrounding area) may be viewed as the principal units affecting the demographics of Columbian sharp-tailed grouse.

Conversion of native habitats, important to Columbian sharp-tailed grouse, to crop production continues (USFWS 1999). Threats to the species also include past and current activities such as rural and suburban development, dam construction, mineral exploitation, chaining, herbicide spraying, and fire (Miller and Graul 1980; Wood 1991; Giesen and Connelly 1993). In addition, grazing practices within portions of the Columbian sharp-tailed grouse range have degraded, or continue to degrade, native habitats (Hart et al. 1950; Miller and Graul 1980; Wood 1992; Giesen and Connelly 1993).

Most of the areas that are currently or may potentially be used by Columbian sharp-tailed grouse occur on privately owned lands (USFWS 1999). Some large portions of these privately owned lands have been withdrawn from crop production and planted to native and non-native cover under the Federal Natural Resources Conservation Service (NRCS) Conservation Reserve Program (CRP), established in 1985 (USDA 1998). CRP lands have become important to Columbian sharp-tailed grouse in Colorado, Idaho, Oregon, Utah, and Washington (USFWS 1999). A number of CRP contracts have expired since 1995, and more are scheduled to expire from now through 2002. While new contracts for CRP lands continue to be accepted and some expired contracts have been renewed, it is unclear what effects these changes have had, or will have, on Columbian sharp-tailed grouse populations (USFWS 1999). If CRP lands important to Columbian sharp-tailed grouse are put back into crop production, adverse impacts to the subspecies' populations will likely occur. In northeast Oregon, a portion of Wallowa County currently supporting a reintroduced population of Columbian sharp-tailed grouse has been designated a Conservation Priority Area by the NRCS under the CRP program in order to benefit the species (Coggins and Matthews 2000).

Reintroduction efforts for Columbian sharp-tailed grouse have occurred in Washington, Montana, Oregon, and Idaho, and additional reintroduction efforts are planned for California, Oregon, and Washington (USFWS 1999). Early reintroduction efforts have failed to produce self-sustaining populations or increase the size or distribution of augmented populations (Toepfer et al. 1990). However, recent efforts indicate greater potential for success as reintroduction techniques have improved (USFWS 1999).

The larger populations of Columbian sharp-tailed grouse made up of smaller, local breeding populations that have the same genetic and ecological interactions among them are at relatively low risk to single or even multiple altering events (USFWS 1999). However, isolated, local and regional populations could be at risk from naturally occurring random events or human-influenced events. Conservation or reestablishment of these populations may require intensive management efforts (Toepfer et al. 1990).

As noted above, Columbian sharp-tailed grouse were extirpated from Oregon by the 1960's. The species was gone from Wallowa County by the late 1940's, and the last Columbian sharp-tails probably occurred in Baker County, in northeast Oregon (Crawford and Coggins 2000). Reintroduction of Columbian sharp-tailed grouse in Oregon began in 1985 with formation of the Oregon Committee for Reintroduction of Columbian Sharp-tailed Grouse (Crawford and Coggins 2000). In the spring of 1991, 33 Columbian sharp-tailed grouse were released on The Nature Conservancy property at Clear Lake Ridge, in Wallowa County (Crawford and Coggins 2000). Subsequent releases occurred at Clear Lake Ridge in 1992 and 1993. Released grouse dispersed to the Leap Area approximately 20 km west of Clear Lake Ridge during the first two years of the reintroduction. In 1993, 13 birds were released in the Leap Area, and from 1994 through 1997 all releases occurred in the Leap Area. From 1991 through 1997 a total of 179 Columbian sharp-tailed grouse was released in Wallowa County. All birds were wild Columbian sharp-tailed grouse from southeast-

ern Idaho. Surveys in 1998 and 1999 located a total of five active leks in the Leap Area; four leks were used during each year (Crawford and Coggins 2000). A total of 26 grouse were observed at leks in 1998 and 25 were observed in 1999. Summer counts after the brood-rearing period were made: 41 grouse were observed in 1998 and 47 were observed in 1999 in the Leap Area. The ODFW estimates there are likely 50-100 Columbian sharp-tailed grouse currently occupying the Leap Area (Coggins, pers. comm. 2000). Lek and summer surveys during 1998 and 1999 indicate that there is a small, self-sustaining population of Columbian sharp-tailed grouse in Wallowa County as a result of reintroduction efforts, but the population is highly vulnerable to extinction due to low numbers of grouse and restricted distribution (Crawford and Coggins 2000).

The long-term survival of this reintroduced population of Columbian sharp-tailed grouse in Wallowa County is dependent on habitat on private lands. Currently, most or all of the sharp-tailed grouse in Wallowa County are using private agricultural lands in the Leap Area. Upland habitats in the Leap Area are predominately small grain (wheat) and CRP fields interspersed with native grasslands. Larger drainages contain shrubs, trees and other riparian vegetation. Crawford and Coggins (2000) reported that grouse in the Leap Area generally used native grassland habitat for nesting and CRP fields for roosting habitat. Native grasslands were likely enhanced by surrounding CRP due to restrictions on grazing. During winters with significant snow accumulation, grouse used riparian habitat with woody vegetation. To date, landowners have been supportive of the Columbian sharp-tailed grouse reintroduction program, have cooperated with ODFW, and are providing habitat to support the birds. The ODFW is concerned that, should the species be listed under the ESA, reintroduction efforts, which have established grouse on private lands, would result in land-use restrictions on cooperating landowners. Should this happen, landowners would have no incentive to cooperate in future reintroduction efforts or to provide suitable grouse habitat, in fact they would have an incentive to not provide habitat for the birds. Due to the concern about landowner-ODFW relations, in some other areas of Oregon, ODFW biologists have put Columbian sharp-tailed grouse reintroduction plans on hold pending resolution of the potential ESA listing (Rickerson, pers. comm. 2000). In Wallowa County, the FWS and ODFW are interested in supporting the current reintroduction efforts by implementing this Agreement for a period of 20 years. This Agreement would be implemented by ODFW, with support from the FWS. The Agreement would provide for future support of the sharp-tailed grouse reintroduction program and provide landowners with funding to provide suitable grouse habitat on their land. The Agreement and the associated Enhancement of Survival permit, issued pursuant to section 10(a)(1)(A) of the ESA, would provide Participating Landowners regulatory assurances that should they cooperate and provide suitable Columbian sharp-tailed grouse habitat on their land, they will not incur additional land-use restrictions on their property should the species eventually be listed. Participating Landowners would be included under this Agreement and the associated permit by agreeing to the appropriate terms of this Agreement and the permit by signing a Certification of Inclusion (Appendix A).

III. Planning Area, Covered Area, Enrolled Lands, and Conservation Lands

For purposes of this Agreement, the planning area is the overall area within which it is possible that Columbian sharp-tailed grouse could occur currently or in the future if the reintroduction effort is successful. The covered area is the area within the planning area which is eligible for coverage under this Agreement and within which Participating Landowners may enroll their lands for coverage under the associated permit (Figure 1). In the future, the covered area can be expanded to other parts of the planning area by amendment of this Agreement and the associated permit. The planning area is an approximately 550 square mile area in Wallowa County that encompasses grassland or cropland habitats generally between the town

of Wallowa on the west, Dead Horse and Long Ridges on the east, Wallowa lake on the south, and Haskin Butte on the north. The covered area is an approximately 156,000-acre area in Wallowa County, Oregon from the town of Enterprise, the Wallowa River, and the Evans Leap Road on the south and west to Haskin Butte, Chesnimnus Creek, and the Zumwalt-Buckhorn Road on the north and east. Over 99% of this area is private land. The area is comprised of approximately 50% grasslands, 22% dry cropland, 10% CRP, 7% riparian, 6% upland shrub/aspen, 3% irrigated cropland, and 2% forest habitats (Hohmann 2000). Most of the dry cropland and CRP habitats are located in an approximately 36,000-acre area in the western one-quarter of the covered area. This area is identified as the Leap Area (Figure 1), and is where all the currently known Columbian sharp-tailed grouse in Wallowa County are located. The remaining three-quarters of the covered area is predominately grassland habitat and the predominate agricultural use is livestock grazing. Approximately 50 private landowners own lands within the covered area (Coggins, pers. comm. 2000). The enrolled lands are those lands within the covered area that actually become included under this Agreement and the permit by landowners signing the Certification of Inclusion. The conservation lands are those enrolled lands identified in the Documentation of Participation Form (Appendix C) that provide conservation benefits for Columbian sharp-tailed grouse under this Agreement.

IV. Duration of the Agreement and Permit

This Agreement and the associated permit issued in accordance with section 10(a)(1)(A) of the ESA, would be for a duration of 20 years from the date the Agreement is signed by the ODFW and FWS and the permit is issued by the FWS. The permit will cover Participating Landowners from the date their lands are enrolled under the Agreement until the end of the permit term.

Conservation lands will be maintained as suitable sharp-tailed grouse habitat for a period of at least 5 years, as identified by ODFW in the Documentation of Participation form (Appendix C).

Coverage under the permit will only apply to those Participating Landowners who enroll lands under this Agreement prior to any future effective ESA listing date of Columbian sharp-tailed grouse. Future non-enrolled landowners wishing incidental take authorization for Columbian sharp-tailed grouse after any future effective ESA listing date, could apply for authorization through the FWS's Habitat Conservation Plan or Safe Harbor Agreement permitting programs.

V. Conservation Measures and Obligations of the Parties

This Agreement is divided into Phase I and Phase II components. Phase I covers an initial, 2-3 month period where basic information is gathered on grouse occurrence with respect to habitats and individual landowners, and grouse distribution within the covered area. Phase I is intended to provide basic information necessary to support Phase II which is the long-term (20-year) implementation or management phase of the Agreement.

Phase I:

During Phase I, the FWS and ODFW will be responsible for gathering additional information concerning Columbian sharp-tailed grouse distribution within the planning area, and specifically how grouse distribution and anticipated seasonal habitat use corresponds to property owned by individual landowners. This task will likely involve review and updating of the current information on sharp-tailed grouse distribution in

Wallowa County, plus additional fieldwork to obtain new grouse distribution and habitat information. The FWS will provide direct funding for this effort as described in part VII. of this Agreement, and ODFW will be responsible for oversight.

Phase II:

Phase II is the 20-year implementation component of the Agreement. The FWS will provide funding under the ESA Private Landowner Incentive Funding Program, and possibly under the Partners of Fish and Wildlife Program. The ODFW will implement and administer the Agreement. Participating Landowners can sign up under the Agreement and be covered under the associated permit through a Certification of Inclusion.

The following Columbian sharp-tailed grouse conservation measures would be provided under the Agreement by the respective parties.

- 1) *Participating Landowners:*
 - a) Enrollment under the Agreement and coverage of the enrolled lands under the permit would be from the date the Participating Landowner's lands are enrolled under the Agreement until the end of the permit term by signing the Certification of Inclusion (Appendix A).
 - b) Conservation lands will be maintained as suitable sharp-tailed grouse habitat for a period of at least 5 years or as identified by ODFW in the Documentation of Participation Form (Appendix C) as the "duration of conservation". During this period, the Participating Landowner will provide suitable lek, nest, roost, and/or winter Columbian sharp-tailed grouse habitat on the conservation lands. Suitable habitat is defined as any combination of lek, nest, roost, and/or winter habitat deemed by ODFW at the time of enrollment, to benefit Columbian sharp-tailed grouse and further the sharp-tailed grouse reintroduction effort in Wallowa County. Habitat may be provided by: 1) enrollment of lands in the NRCS CRP program such that grassland habitat suitable for grouse is expected to develop; 2) development of grassland habitat suitable for sharp-tailed grouse; 3) development of riparian or other habitats suitable for sharp-tailed grouse winter habitat; 4) maintenance or enhancement of existing CRP grassland, native grasslands, riparian habitat, or other habitats using fencing, grazing management, or other means necessary to benefit sharp-tailed grouse; or 5) other sharp-tailed grouse habitat protection measures deemed beneficial by ODFW to conservation of sharp-tailed grouse. Lands can be enrolled under the Agreement and the permit whether or not the Participating Landowner receives funding from the ODFW or FWS. See Appendix B for examples. The Documentation of Participation Form will identify, among other things, the suitable sharp-tailed grouse habitat to be maintained on the conservation lands and the duration that this habitat will be maintained.
 - c) Allow ODFW personnel access to the enrolled lands for purposes of monitoring sharp-tailed grouse use of the enrolled lands or habitat conditions on the enrolled lands.

2) ODFW:

- a) Implement and administer this Agreement including: monitoring sharp-tailed grouse distribution and status within the planning area, coordinating private landowner sharp-tailed grouse habitat management efforts, enrolling Participating Landowners under this Agreement using the Certification of Inclusion, additional release of Columbian sharp-tailed grouse if necessary for successful reintroduction of the species, and preparation of required annual reports.
- b) ODFW will complete the Documentation of Participation Form (Appendix C), to document that the landowner's proposed habitat enhancement or protection measures will provide a conservation benefit to Columbian sharp-tailed grouse by providing an adequate quantity and quality of lek, nest, roost, or winter habitat. At least 30 days prior to enrolling Participating Landowners under this Agreement using the Certification of Inclusion, ODFW will provide the completed Documentation of Participation Form to the FWS for concurrence.
- c) Provide necessary ESA Private Landowner Incentive Program funding to landowners in accordance with part VII. of this Agreement.
- d) Prepare annual reports on implementation of the Agreement in accordance with part IX. of this Agreement.

3) FWS:

- a) Provide funding under the ESA Private Landowner Incentive Program for Columbian sharp-tailed grouse habitat conservation and Agreement implementation in accordance with part VII. of this Agreement.
- b) If appropriate, provide funding under the Partners for Fish and Wildlife Program to benefit Columbian sharp-tailed grouse habitat.
- c) Issue a permit to ODFW, under section 10(a)(1)(A) of the ESA, in accordance with 50 CFR 17.32 (d), with a term of 20 years, that would provide the ODFW and Participating Landowners with authorization for incidental take of Columbian sharp-tailed grouse and provide regulatory assurances should the species be listed under the ESA in the future. The permit would authorize incidental take of Columbian sharp-tailed grouse resulting from agricultural-related activities: crop cultivation and harvesting, livestock grazing, and farm equipment operation.
- d) Within 30 days of receipt of a completed Documentation of Participation Form from ODFW, notify ODFW of FWS concurrence or nonconcurrence concerning the enrollment of the Participating Landowner.

4) The Participating Landowner will cooperate with ODFW in completion of the Documentation of Participation Form (Appendix C).

- 5) Those Participating Landowners who receive funding under this Agreement through the ESA Private Landowner Incentive Program will have the following obligations:

In the event the Participating Landowner needs to sell the conservation lands prior to the end of the “duration of conservation” period for these lands under this Agreement, they will notify the FWS at least 60 days in advance of the potential sale, and notify the prospective landowner of the existence of this Agreement (and/or have previously recorded the Agreement) in order for the potential new owner to decide whether to continue this Agreement. In the event the new landowner does not wish to continue this Agreement and request transfer of the permit pursuant to 50 CFR 13.25(b), the Participating Landowner terminates their enrollment under this Agreement for other reasons, or the FWS suspends or revokes the permit, the Participating Landowner that has received FWS funds under this Agreement will reimburse the FWS a pro-rated amount, calculated as: (total funding received ÷ the original “duration of conservation” period from the Documentation of Participation Form) x (the number of years remaining to be completed in the “duration of conservation” period). If the new landowner does not become a party to this Agreement and the permit is not transferred, or a new permit is not issued, he/she will not receive the benefits of the permit authorizing incidental take of Columbian sharp-tailed grouse.

- 6) The FWS provides ODFW and Participating Landowners the ESA regulatory assurances found at 50 CFR 17.32(d)(5). Consistent with the FWS’s Candidate Conservation Agreement with Assurances Final Policy (USFWS and NMFS 1999), conservation measures and land, water, or resource use restrictions in addition to the measures and restrictions described in this Agreement will not be imposed should Columbian sharp-tailed grouse become listed under the ESA in the future. These assurances are authorized by the enhancement of survival permit issued under section 10(a)(1)(A) of the ESA and may apply to the whole parcel, or a portion of the enrolled lands identified in the Certification of Inclusion. In the event of unforeseen circumstances, the FWS will not require the commitment of additional land, water, or other natural resources beyond the level otherwise agreed to for the species in this Agreement without the consent of the ODFW and Participating Landowners. The permit will authorize Participating Landowners to incidentally take Columbian sharp-tailed grouse as long as such take is consistent with this Agreement and the associated permit.
- 7) The ODFW or FWS may propose modifications to this Agreement by providing written notice to the other party. Such notice shall include a statement of the proposed modification and the reason for the modification. Proposed modifications will become effective upon the other parties’ written approval.
- 8) The Agreement or permit may be amended in accordance with all applicable legal requirements, including but not limited to the ESA, the National Environmental Policy Act, and the FWS’s permit regulations. The party proposing the amendment shall provide a statement of the proposed amendment and the reasons for the amendment.
- 9) The FWS may suspend or revoke the permit for cause in accordance with the laws and regulations in force at the time of such suspension or revocation.
- 10) Each party shall have all remedies otherwise available to enforce the terms of this Agreement and the permit, except that no party shall be liable in damages for any breach of this Agreement, any

performance or failure to perform an obligation under this Agreement or any other cause of action arising from this Agreement.

- 11) The FWS, ODFW, and Participating Landowners agree to work together in good faith to resolve any disputes, using dispute resolution procedures agreed upon by all parties.
- 12) Implementation of this Agreement is subject to the requirements of the Anti-Deficiency Act and the availability of appropriated funds. Nothing in this Agreement will be construed by the parties to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury. The parties acknowledge that the FWS will not be required under this Agreement to expend any federal agency's appropriated funds unless and until an authorized official of that agency affirmatively acts to commit to such expenditures as evidenced in writing.
- 13) This Agreement does not create any new right or interest in any member of the public as a third-party beneficiary, nor shall it authorize anyone not a party to this Agreement to maintain a suit for personal injuries or damages pursuant to the provisions of this Agreement. The duties, obligations, and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed under existing law.
- 14) The terms of this Agreement shall be governed by and construed in accordance with applicable federal law. Nothing in this Agreement is intended to limit the authority of the FWS to fulfill its responsibilities under federal laws. All activities undertaken pursuant to this Agreement or the permit must be in compliance with all applicable state and federal laws and regulations.
- 15) This Agreement shall be binding on and shall inure to the benefit of the parties and their respective successors and transferees, in accordance with applicable regulations (currently codified at 50 CFR 13.24 and 13.25) for the duration of the Agreement.
- 16) Any notices or reports required by this Agreement shall be delivered in writing to the Administrators listed on page 1 of this Agreement.

VI. Expected Conservation Benefits

As identified in the FWS's Candidate Conservation Agreement with Assurances Final Policy (USFWS and NMFS 1999), the FWS must determine that the conservation measures and the expected benefits, when combined with those benefits that would be achieved if it is assumed that similar conservation measures were also implemented on other necessary properties, would preclude or remove the need to list Columbian sharp-tailed grouse.

Conservation benefits for Columbian sharp-tailed grouse from implementation of the Agreement are expected in the form of enhancement and restoration of sharp-tailed grouse habitat intended to contribute to an increase and reestablishment of the Columbian sharp-tailed grouse population in Wallowa County. In addition, conservation of sharp-tailed grouse would be enhanced by improving and encouraging cooperative grouse management efforts between the ODFW and FWS, and Participating Landowners who own and control most of the sharp-tailed grouse habitat. Also, this Agreement may be used as a model for agreements in other parts of Oregon to encourage reintroduction and cooperative management of Columbian sharp-tailed grouse in other areas.

In the planning area, native grasslands provide suitable habitat for sharp-tailed grouse nesting and lek sites, particularly when effects of grazing have been reduced by management of adjacent areas as CRP; native grasslands were the most important habitat for sharp-tailed grouse nesting in Wallowa County (Crawford and Coggins 2000). Under the Agreement, Participating Landowners would provide conservation benefits to sharp-tailed grouse by maintaining or enhancing native grasslands by a variety of means. Livestock grazing can be managed to provide for adequate residual grass cover or other factors that would enhance grouse nesting habitat. Native grasslands adjacent to or intermingled with CRP grasslands would be enhanced indirectly by managing grazing or otherwise improving native grasslands as nest or lek habitat. In some cases, areas could be reseeded with grassland species, or protection and enhancement of existing grasslands could occur through fencing or other management techniques.

Enrollment of lands in the CRP program could be a primary reason for the relative success of the Columbian sharp-tailed grouse reintroduction program in Wallowa County to date. CRP grasslands in Wallowa County directly benefit sharp-tailed grouse conservation by providing suitable roosting, lek, and to some extent nesting habitat (Crawford and Coggins 2000). Also, as noted above, CRP provides indirect benefits to grouse by enhancing the suitability of grasslands as nesting habitat.

Under the Agreement, sharp-tailed grouse conservation would be enhanced by providing ESA regulatory assurances such that, should the Participating Landowner already have, or put land into the NRCS CRP Program, and attract sharp-tailed grouse to their property, the landowner will not incur additional land use restrictions. Without regulatory assurances, landowners may be unwilling to include lands in the NRCS CRP Program and attract grouse if they are concerned about future land use restrictions should the species be listed. Also, under the Agreement, a Participating Landowner can be paid for growing other suitable grasslands in areas not eligible for the NRCS CRP Program, but beneficial for sharp-tailed grouse conservation.

During winters when snow depths are low, sharp-tailed grouse in the Leap Area generally appear to use upland areas, feeding in CRP, native grasslands, and harvested wheat fields. However, when snow depths increase, grouse often move into riparian areas with adequate deciduous trees and shrubs for cover and feeding (Coggins pers. comm. 2000). Riparian areas with adequate deciduous vegetation are likely very important wintering habitat for sharp-tailed grouse. Under the Agreement, funding is available for riparian habitat protection and enhancement projects. Landowners could be compensated for fencing riparian areas, or otherwise managing grazing to enhance riparian habitat, and for planting shrubs or trees to enhance recovery of riparian habitat. Compensation could be in the form of funding for fence construction, creation of alternative livestock watering areas, direct compensation for loss or reduced use of an area, or planting riparian shrubs or trees.

In summary, the benefits to Columbian sharp-tailed grouse from conservation measures under the Agreement are expected to occur from enhancement of all types of habitat believed to be important for sharp-tailed grouse in Wallowa County. The combination of these habitat-related benefits with the Agreement's regulatory assurances creating a cooperative relationship with landowners, is expected to result in an overall benefit to sharp-tailed grouse conservation and likely an increase in the grouse population. In order to successfully reintroduce sharp-tailed grouse in Wallowa County, the current population of grouse will have to expand and/or additional birds will have to be released. This will require cooperation from private landowners who own most of the suitable sharp-tailed grouse habitat in Wallowa County. By reducing landowner's regulatory concerns related to the potential listing of Columbian sharp-tailed grouse, cooperation with and support from landowners for expansion of the grouse population should be enhanced. Without the support of private landowners, the sharp-tailed grouse reintroduction effort in

Wallowa County will probably not be successful. Ultimately, the Agreement is expected to provide a significant contribution to the successful reintroduction of Columbian sharp-tailed grouse in Wallowa County. If the level of habitat improvement or protection, and ultimately successful reintroduction of Columbian sharp-tailed grouse, expected under this Agreement were accomplished throughout the range of the species the FWS believes that the need to list the species would likely be precluded or removed.

VII. Funding

Phase I:

\$5395 Gathering additional information concerning Columbian sharp-tailed grouse distribution within the planning area, and specifically how grouse distribution and anticipated seasonal habitat use corresponds to property owned by individual landowners. The FWS will provide direct funding for this phase and ODFW will provide oversight concerning information collection.

Phase II:

\$50,000 Funding for Agreement implementation and monitoring (\$24,000). Funds for transmitters to monitor grouse populations and habitat use (\$3600). Funding to go directly to landowners or otherwise be used for sharp-tailed grouse habitat enhancement or protection measures (\$22,400), in the manner outlined below. All funding for Phase II will be spent during the first 5 years of the Agreement, unless additional funds are obligated. **The ODFW will have the discretion to prioritize individual habitat conservation projects to best use the limited funds available in Phase II.** The funds itemized in Phase II do not include funding that may be available under the FWS's Partners for Wildlife Program.

1) Labor and materials for fencing, providing for alternate livestock watering areas, seeding, purchasing hay, or other land management actions deemed necessary by ODFW and FWS to benefit sharp-tailed grouse habitat. The funding rates would be determined at the time by ODFW and FWS.

2) Labor and materials for enhancement of riparian areas by planting riparian shrubs or trees, or other measures deemed necessary by ODFW and FWS. The funding rates would be determined at the time by ODFW and FWS.

3) Pay Participating Landowners for growing suitable grasslands in areas not eligible for the NRCS CRP Program. The areas and seed mix to be planted will be identified by ODFW with the intent of benefitting sharp-tailed grouse conservation. The funding rates would be determined at the time by ODFW and FWS.

4) Pay Participating Landowners for the costs of deferment or exclusion of grazing or other agricultural activities necessary to protect or enhance sharp-tailed grouse habitat. The compensation rate will be the current lease rate at the time the lands are enrolled under this Agreement or a rate negotiated with ODFW.

- 5) Funding for other, currently unforeseen, sharp-tailed grouse habitat conservation measures deemed by ODFW and FWS to be beneficial to sharp-tailed grouse. The funding rates would be determined at the time by ODFW and FWS.
- 6) Nothing in this Agreement would prevent the ODFW or FWS from obligating additional funding for this Agreement in the future.

VIII. Level of Incidental Take

Should Columbian sharp-tailed grouse be listed under the ESA, authorization for incidental take under the section 10 Enhancement of Survival permit, is limited to agricultural-related activities (crop cultivation and harvesting, livestock grazing, and farm equipment operation) of the Participating Landowners. The level of incidental take can best be described during two periods of time: during the duration of conservation for the lands enrolled under this Agreement, and after the duration of conservation.

During the duration of conservation under the Agreement, incidental take and the resulting effects to sharp-tailed grouse are expected to be minimal. Since grouse habitat protection and enhancement measures will be in place during this period, impacts would be limited to minor disturbance from various agricultural activities or activities related to grouse habitat protection or improvement.

The greatest level of incidental take would likely occur after the duration of conservation period. After the expiration of the duration of conservation period under the Agreement, the Participating Landowner would have no further obligation to maintain the sharp-tailed grouse habitat protection or enhancement measures under the Agreement. As a result, impacts to sharp-tailed grouse could occur in the form of habitat loss. Habitat loss would likely be most significant in CRP habitats, since these areas are the most likely to be converted back to cropland. Impacts to native grassland and riparian habitats important to sharp-tailed grouse would likely be less than in CRP habitat since impacts would be primarily from increased livestock grazing, more subtle than outright habitat conversion, and occur gradually over time. CRP habitat conversion would likely also occur gradually since not all lands would be enrolled under the NRCS program or this Agreement at the same time. Some CRP lands may remain in CRP if the landowner re-enrolls in the NRCS program. Even with this possible level of incidental take, the Agreement will provide substantial benefits to conservation of the species by contributing to the reestablishment of Columbian sharp-tailed grouse in Wallowa County.

The actual level of take of Columbian sharp-tailed grouse is largely unquantifiable. As noted above most incidental take is expected to occur from the possible eventual conversion of CRP habitat back to crop production. Since there are approximately 16,000 acres of CRP habitat currently in the covered area, a maximum level of incidental take can be estimated by assuming total conversion of these acres to cropland. This is likely a maximum level of impact, and is not expected to occur, since sharp-tailed grouse will not likely occupy the entire area, and because some of these lands may remain in CRP habitat through future re-enrollment in the NRCS CRP Program or a landowners desire to leave the land in grassland. Incidental take of sharp-tailed grouse outside CRP habitat areas would probably be considerably less than within CRP, although the level would be unquantifiable. If incidental take did occur, it would likely be more subtle than in CRP areas and would be gradual over time. Incidental take could occur as a result of grazing practices that modify grassland habitat to an extent that hinders or prevents sharp-tailed grouse nesting activity. This could occur over the grassland habitat in the covered area or approximately 80,000 acres, however, again, this is a maximum level of impact, and is not expected to occur. Grazing practices in the covered area are

not expected to degrade habitat on a large scale, since some areas will likely be grazed more intensively than others, and some suitable habitat is expected to occur throughout the area that could support sharp-tailed grouse. Some direct impacts or take could occur from other agricultural-related activities such as farm equipment operation, however, these impacts are expected to be limited and sporadic in nature. Sharp-tailed grouse conservation benefits under the Agreement will likely accrue (and as a result impacts and incidental take will be reduced) well beyond the duration of conservation period especially from habitat enhancement and protection measures related to non-CRP grasslands and riparian habitats. Overall, although impacts and incidental take are expected to occur, especially after the duration of conservation periods expire, impacts are not expected to be great enough to compromise the viability of the sharp-tailed grouse population in Wallowa County should the birds be successfully reintroduced.

The FWS believes that this level of incidental take is consistent with the overall goal of precluding the need to list the species, if it is assumed that the reintroduction and habitat protection/enhancement conservation measures like those in this Agreement were successfully implemented throughout the range of Columbian sharp-tailed grouse.

IX. Monitoring and Reporting

The ODFW will be responsible for annual monitoring and reporting related to the Agreement. Information in annual reports will include, but is not limited to: 1) a summary of Participating Landowners enrolled under the Agreement over the past year including copies of the completed Certification of Inclusion and the Documentation of Participation forms; 2) sharp-tailed grouse habitat management and habitat conditions in the covered area and on all enrolled lands over the past year, including the status of lands where the duration of conservation has expired; 3) effectiveness of sharp-tailed grouse habitat management activities implemented in previous years at meeting the intended conservation benefits; 4) a summary of sharp-tailed grouse population surveys and radio-telemetry studies over the past year; 5) a summary of funds used under the ESA Private Landowner Incentive Program and the Partners for Fish and Wildlife Program; and 6) other information that ODFW deems pertinent to the sharp-tailed grouse reintroduction program. Reports will be due January 1 of each year and a copy will be made available to the Administrators of this Agreement and any Participating Landowners.

X. Literature Cited

- Buss, I.O. and E.S. Dziedzic. 1955. Relation of Cultivation to the Disappearance of the Columbian Sharp-tailed Grouse from Southeastern Washington. *Condor*. 57:185-187.
- Coggins, V. and P. Matthews. 2000. Columbian Sharp-tailed Grouse Project, Wallowa County. Unpublished Progress Report, January 20, 2000. 3p.
- Crawford, J.A. and V.L. Coggins. 2000. The Reestablishment of Columbian Sharp-tailed Grouse Into Oregon. Unpublished Report, January 24, 2000. 80pp.
- Giesen, K.M. and J.W. Connelly. 1993. Guidelines for Management of Columbian Sharp-tailed Grouse Habitats. *Wildl. Soc. Bull.* 21:325-333.

- Hart, C.M., O.S. Lee, and J.B. Low. 1950. The Sharp-tailed Grouse in Utah—Its Life History, Status, and Management. Pub. no. 3, Utah State Dept. of Fish and Game.
- Hohmann, J. 2000. Sharp-tailed grouse in Wallowa County, Oregon - Spring 2000. Unpublished report submitted to the U.S. Fish and Wildlife Service, June 25, 2000. 6pp.
- Marks, J.S. and V.S. Marks. 1987. Habitat selection by Columbian Sharp-tailed Grouse in West-central Idaho. Bureau of Land Management Report, Boise, Idaho. 115 pp.
- McDonald, M.W. and K.P. Reese. 1998. Landscape Changes Within the Historical Distribution of Columbian Sharp-tailed Grouse in Eastern Washington: Is There Hope? Northwest Bioscience 72:34-41.
- Miller, G.C. and W.D. Gaul. 1980. Status of Sharp-tailed Grouse in North America. Pages 18-28 in P.A. Bohs and F.L. Knopf, eds., Proc. of the Prairie Grouse Symp., Oklahoma State Univ.
- Saab, V.A. and J.S. Marks. 1992. Summer Habitat Use by Columbian Sharp-tailed Grouse in Western Idaho. Great Basin Naturalist. 52:166-173.
- Toepfer, J.E., R.L. Eng, and R.K. Anderson. 1990. Translocating Prairie Grouse: What Have We Learned? Trans. 55th N.A. Wildl. and Nat. Res. Conf. 569-579 pp.
- USDA. 1998. The Conservation Reserve Program: 16th Signup. January 29, 1998 Report by the Farm Service Agency. 249 pp.
- U.S. Fish and Wildlife Service. 1999. Endangered and Threatened Wildlife and Plants; 90-day Finding on a Petition to List the Columbian Sharp-tailed Grouse as Threatened. Federal Register 64(206): 57620-57623.
- U.S. Fish and Wildlife Service and National Marine Fisheries Service. 1999. Announcement of Final Policy for Candidate Conservation Agreements with Assurances. Federal Register 64(116):32726-32736.
- Washington Department of Fish and Wildlife. 1995. Washington State Management Plan for Columbian Sharp-tailed Grouse (*Tympanuchus phasianellus columbianus*): draft. Game Div., Wash. Dept. Fish and Wildl., Olympia. 94 pp.
- Wood, M.A. 1991. Columbian Sharp-tailed Grouse Mitigation Implementation Plan for Western Montana. Report by the Montana Dept. of Fish, Wildlife, and Parks. 24 pp.
- _____. 1992. Northwest Montana Wildlife Mitigation Program—Habitat Protection Project. Report by the Montana Dept. of Fish, Wildlife, and Parks. 14 pp.

APPENDIX A

CERTIFICATION OF INCLUSION
In The
Candidate Conservation Agreement with Assurances for Columbian Sharp-tailed Grouse
(*Tympanuchus phasianellus*) between the Oregon Department of Fish and Wildlife
and the U.S. Fish and Wildlife Service

This certifies that the Participating Landowner of the property described in the Documentation of Participation Form [Attach Completed Form] are included within the scope of Permit No._____, issued on **(INSERT DATE)** to the Oregon Department of Fish and Wildlife (ODFW) under the authority of Section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539(a)(1)(B). Such permit authorizes incidental take of Columbian sharp-tailed grouse by Participating Landowners, as part of a Candidate Conservation Agreement with Assurances (Agreement), to support ODFW 's efforts to reintroduce Columbian sharp-tailed grouse into formerly occupied areas. Pursuant to that permit and this certificate, the Participating Landowner is authorized to cause incidental take of Columbian sharp-tailed grouse as a result of agricultural activities identified in section 3.c. of the Agreement on the enrolled lands identified in the Documentation of Participation Form. Permit authorization is subject to carrying out conservation measures identified in the Documentation of Participation Form, the terms and conditions of the permit, and the terms and conditions of the Agreement, entered into pursuant thereto by the ODFW and the U.S. Fish and Wildlife Service. By signing this Certification of Inclusion, the Participating Landowner agrees to carry out all of the conservation measures described in the attached Documentation of Participation Form.

ODFW Representative

Date

Participating Landowner

Date

APPENDIX B

EXAMPLES OF SHARP-TAILED GROUSE HABITAT BENEFITS PROVIDED BY PARTICIPATING LANDOWNERS

These examples are intended to illustrate how the habitat conditions on a Participating Landowner's enrolled lands would qualify for enrollment under the Agreement and permit. They are only examples, and are not intended in any way to represent all of the variety of conservation actions that might actually occur. It is important to note that *current* habitat conditions (e.g. suitable currently enrolled CRP, suitable grasslands, etc.) or habitat in the process of being created or enhanced can qualify for enrollment. It should also be noted that lands can be enrolled under the Agreement and covered under the permit regardless of whether or not the Participating Landowner has received any funding associated with this Agreement. After all funding under the Agreement has been expended, landowners can still enroll suitable lands under the Agreement and be covered by the permit.

Example 1: A Participating Landowner owns 300 acres, and plans on including 150 acres in the NRCS CRP Program. One-hundred twenty (120) acres are native grasslands, are interspersed within the future CRP lands, and would not be grazed during the enrollment period. The remaining 30 acres are in a riparian creek bottom that has potential for grouse winter habitat. The landowner could receive funds under this agreement for habitat improvement in the riparian area such as planting suitable shrubs or trees, fencing the area, compensation for grazing deferment, etc. for an agreed upon period of time (duration of conservation). The landowner would **not** receive funds under this Agreement for the CRP lands, since funds would be received under the NRCS CRP program. The entire 300 acres would be identified on the Documentation of Participation Form as conservation lands. **All** 300 acres of enrolled lands would be covered under the permit and the landowner would receive regulatory assurances from the date the lands were enrolled until the 20-year anniversary date of the permit.

Example 2: A Participating Landowner owns 300 acres of land **currently** in the NRCS CRP program. The landowner would **not** receive funds under this Agreement for the CRP lands; funds would be received under the NRCS CRP program. The entire 300 acres would be identified on the Documentation of Participation Form as conservation lands. **All** 300 acres would be covered under the permit and the landowner would receive regulatory assurances from the date the lands were enrolled until the 20-year anniversary date of the permit.

Example 3: A Participating Landowner owns 150 acres of suitable bunchgrass grassland that has not been grazed for years and is excellent sharp-tailed grouse habitat. The landowner agrees to not alter the area (will not graze, cultivate, etc.) for the next 8 years (duration of conservation). The landowner could receive funding under the Agreement at the current lease rate for grazing, and all 150 acres would be covered under the permit from the date the lands were enrolled until the 20-year anniversary date of the permit.

Example 4: A Participating Landowner owns 500 acres, half of which is in wheat cropland and half is grassland that would be excellent grouse habitat if grazing practices were modified. The landowner wishes to continue growing wheat on the 250 acres, and is interested in modifying grazing on the other 250 acres for 15 years (duration of conservation period). The landowner can be compensated under the Agreement for changes in grazing practices on the 250 acres of grassland. **All** 500 acres could be enrolled under the Agreement and covered under the permit from the date the lands were enrolled until the 20-year anniversary date of the permit. The 250 acres of grassland would be identified as conservation lands on the Documentation of Participation Form and the Participating Landowner would modify grazing practices as identified by ODFW on the Documentation of Participation Form.

APPENDIX C

DOCUMENTATION OF PARTICIPATION FORM

A. Participating Landowner's Name and Address: _____

B. Legal Description of Enrolled Lands or Detailed Map with Enrolled Lands Identified: _____

C. Total Acres of Enrolled Lands (all lands covered by permit): _____

D. Legal Description of Conservation Lands or Detailed Map with Conservation Lands Identified:

E. Duration of Conservation (years): _____

F. Sharp-tailed Grouse Benefit on Conservation Lands:

For each applicable category of conservation lands, indicate the amount of habitat (acres), specific conservation/management actions the Participating Landowner will take to benefit sharp-tailed grouse conservation (CRP enrollment, grazing modifications, riparian habitat enhancement, etc.), and the expected sharp-tailed grouse conservation benefits expected from these management actions. The categories of conservation lands are: existing CRP, new CRP, existing suitable grasslands, new suitable grasslands, riparian habitat, other habitat.

ODFW Representative

Date

FWS Concurrence

Date



U.S. Fish & Wildlife Service

ENVIRONMENTAL ASSESSMENT

Approval of a Candidate Conservation Agreement with Assurances for Columbian Sharp-tailed Grouse between the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service, Wallowa County, Oregon

Prepared By: *Dennis Mackey*
U.S. Fish and Wildlife Service
1387 S. Vinnell Way, Room 368
Boise, Idaho 83709

Date Prepared: July 25, 2000

Section I: PURPOSE AND NEED FOR ACTION

A. Purpose for Taking Action:

The purpose of the subject Candidate Conservation Agreement with Assurances (Agreement) (ODFW and USFWS 2000) is for the Oregon Department of Fish and Wildlife (ODFW) and the U.S. Fish and Wildlife Service (FWS) to implement conservation measures for Columbian sharp-tailed grouse in Wallowa County, northeast Oregon, in support of ODFW's ongoing efforts to reintroduce the species to areas that it historically occupied. This Agreement is intended to facilitate the conservation of Columbian sharp-tailed grouse by giving the State of Oregon and private landowners incentives to implement conservation measures by providing landowners with regulatory certainty concerning land use restrictions that might otherwise apply should Columbian sharp-tailed grouse become listed under the Endangered Species Act (ESA).

B. Need for Taking Action:

From 1991 through 1997 ODFW released a total of 179 Columbian sharp-tailed grouse in Wallowa County as part of their efforts to reintroduce the species in Oregon. Currently all known Columbian sharp-tailed grouse occur on private land. To date, landowners have been supportive of the Columbian sharp-tailed grouse reintroduction program, have cooperated with ODFW, and are providing habitat to support the birds. The ODFW is concerned that, should the species be listed under the ESA, reintroduction efforts could result in land-use restrictions on cooperating landowners. Should this happen, landowners would have a disincentive to cooperate in future reintroduction efforts or to provide suitable grouse habitat. As a result of this potential regulatory concern of landowners, ODFW has decided to develop a Candidate Conservation Agreement with Assurances for Columbian sharp-tailed grouse and apply to the FWS for a permit under section 10(a)(1)(A) of the ESA, authorizing incidental take of the birds by cooperating landowners. The need for the action is for the FWS to respond to ODFW's permit application and related request for approval of the Agreement.

C. Decision to be Made by the Responsible Official:

The FWS's decision is whether to issue a section 10(a)(1)(A) permit under the ESA based on the Agreement as proposed, on the Agreement as further conditioned, or deny the permit application and not approve the Agreement. To issue the permit, the FWS must find that: 1) the take will be incidental to an otherwise lawful activity and will be in accordance with the terms of the Agreement; 2) The Agreement complies with the requirements of the Candidate Conservation Agreement with Assurances policy; 3) the probable direct and indirect effects of any authorized take will not appreciably reduce the likelihood of survival and recovery in the wild of any species; 4) implementation of the terms of the Agreement is consistent with applicable Federal, State, and Tribal laws and regulations; 5) implementation of the terms of the Agreement will not be in conflict with any ongoing conservation programs for species covered by the permit, and 6) ODFW has shown capability for and commitment to implementing all of the terms of the Agreement.

D. Issues Raised During Project Planning or Public Scoping:

The detailed analysis in Section IV of this Environmental Assessment is limited to wildlife species and their habitat. Factors affecting other resources will not differ substantially whether the proposed action of approving the Agreement and issuing the permit is taken or not. Under the Agreement, the types of land-use activities that occur would be the same as under the No Action alternative. The primary difference between the two alternatives would be the timing of these activities. The Agreement would provide for enhancement and protection of upland and riparian habitats with the purpose of conserving sharp-tailed grouse habitat. The permit would authorize incidental take of Columbian sharp-tailed grouse, as a result of certain agricultural-related activities, should the species eventually be listed under the ESA. These activities would be: crop cultivation and harvesting, livestock grazing, and farm equipment operation. Under the Agreement and permit, some areas, within the approximately 156,000-acre covered area, that become enrolled under the Agreement would experience some level of deferment or lessening of these agricultural activities in the short-term (likely less than 10 years). Over the long-term, the level of these activities would be similar to those that would occur without approval of the Agreement and issuance of the permit.

Factors affecting other resources (air quality, geology and soils, water quality and quantity, socio-economic, cultural and historic resources, recreation, and visual resources) will not differ whether the Agreement is approved and the permit is issued or not. The relatively minor temporal difference in activities between the alternatives of the FWS issuing and not issuing the permit is not expected to result in a difference in effects on air quality, geology and soils, water quality and quantity, socio-economic resources, cultural or historic resources, recreation, and visual resources. Differences in effects to air quality, geology and soils, and water quality and quantity would be minor or negligible, due to the small scale and short-term nature of the differences between the two alternatives. Socio-economic resources would not be affected differently between the two alternatives, since no social or economic changes are expected to result from approval of the Agreement. Most lands in the covered area have been used extensively for over 100 years for agricultural purposes, including cultivating farmland and raising crops and livestock grazing. Impacts to any cultural or historic sites found in the area have likely already happened multiple times, and approval of the Agreement is not expected to result in additional impacts from those that would occur without the Agreement. Recreation and visual resources are expected to remain the same with or without the permit. Since approval of the Agreement and issuance of the permit will not have additional effects to non-wildlife resources, these issues do not warrant further discussion within the scope of this Environmental Assessment.

Section II: ALTERNATIVES INCLUDING THE PROPOSED ACTION

Alternative A. (No Action Alternative)

Under the No Action Alternative, the Agreement would not be approved and the permit would not be issued. Agricultural activities would continue within the covered area in accordance with applicable laws. Approximately 50% of the 156,000 acre covered area is rangeland, most of which appears to be grazed to some extent by livestock. Approximately 22% of the covered area is dryland crop or pasture land. The primary agricultural activities in the area that would continue are those related to dry and irrigated crop production and livestock grazing.

It is uncertain if the ODFW Columbian sharp-tailed grouse reintroduction program would continue under the No Action Alternative. Since sharp-tailed grouse in Wallowa County are largely dependent on private

lands, landowner attitudes toward the species are important if the birds are going to successfully be reintroduced. The ODFW is concerned about the negative effects a potential ESA listing could have on landowner cooperation. Should Columbian sharp-tailed grouse be listed under the ESA, and landowners not allow grouse to be released on their land, the chances of a successful reintroduction would be substantially diminished. While some Columbian sharp-tailed grouse currently occur in the covered area, they are only located in a small area, are few in number (likely <50 individuals), and are vulnerable to extirpation due to stochastic or other natural and human-caused events. Without a continuation of the reintroduction program, it is questionable whether this small, isolated population will persist over the long-term.

Under the No Action Alternative, habitat would likely be created that is suitable for Columbian sharp-tailed grouse. One portion of the covered area is currently supporting a small reintroduced population of sharp-tailed grouse in an area with extensive agricultural activity, and continuation of these activities should continue to provide habitat for the birds.

Alternative B. (Limited Area Alternative)

Under this alternative, the Agreement would be approved and the permit would be issued to ODFW. Subsequently, ODFW would sign up Participating Landowners under the Agreement and permit. Participating landowners could be compensated for providing sharp-tailed grouse habitat, and would receive regulatory assurances from the FWS that disruption of their land-use activities will be minimal should the species be listed under the ESA. Providing Participating Landowners ESA regulatory assurances should alleviate concerns over a potential listing and enhance landowner cooperation in the Columbian-sharp-tailed grouse reintroduction effort. Under this alternative, the ODFW Columbian sharp-tailed grouse reintroduction program would likely continue to some degree, and the long term conservation of sharp-tailed grouse in Wallowa County would be enhanced.

Alternative B would not include the entire 156,000 acre geographic area covered by the No Action and Proposed Action Alternatives. The area covered by Alternative B is an approximately 36,000 acre area, or roughly the western one-quarter of the area included under the No Action and Proposed Action Alternatives. This area is identified as the “Leap Area” (Figure 1) and is largely dominated by agricultural activities related to crop production, primarily dryland crop production. It is also the area where a considerable amount of land is enrolled in the Natural Resources Conservation Service’s Conservation Reserve Program (CRP), and the only area in Wallowa County where sharp-tailed grouse are known to occur at present.

Under Alternative B, Columbian sharp-tailed grouse habitat would be created and enhanced to a greater extent than under the No Action Alternative since conservation measures would be specifically targeted at improving sharp-tailed grouse habitat. The alternative would have less conservation benefits for sharp-tailed grouse than the Proposed Action Alternative, since it would cover a smaller area and provide less sharp-tailed grouse habitat enhancement opportunities. Furthermore, the more limited area would provide ESA regulatory assurances to fewer landowners which could restrict landowner acceptance of the ODFW sharp-tailed grouse reintroduction effort to other areas in Wallowa County.

Alternative C. (Proposed Action)

Under the Proposed Action Alternative, the Agreement would be approved and the permit would be issued to ODFW. Subsequently, ODFW would sign up Participating Landowners under the Agreement and permit. Participating landowners could be compensated for providing sharp-tailed grouse habitat, and would receive regulatory assurances from the FWS that disruption of their land-use activities will be minimal should the species be listed under the ESA. Providing Participating Landowners ESA regulatory assurances should alleviate concerns over a potential listing and enhance landowner cooperation in the Columbian-sharp-tailed grouse reintroduction effort. Under this alternative the ODFW Columbian sharp-tailed grouse reintroduction program would likely continue and the long term conservation of sharp-tailed grouse in Wallowa County would be enhanced.

The Proposed Action Alternative would cover the same 156,000 acre geographic area as the No Action Alternative which is generally comprised of cropland and grasslands. Also, like the No Action Alternative, the primary agricultural activities in the area that would continue are those related to dry and irrigated crop production and livestock grazing. Although the activities would occur under both alternatives, possible negative effects from these activities under the Proposed Action Alternative would be less in the short term (i.e. the first 10 years), but similar in the long term.

Under the Proposed Action Alternative, Columbian sharp-tailed grouse habitat would be created and enhanced to a greater extent than under the No Action Alternative since conservation measures would be specifically targeted at improving sharp-tailed grouse habitat. The Proposed Action Alternative also would have greater conservation benefits for sharp-tailed grouse than Alternative B due to the larger land base covered, which includes a wider variety of potential sharp-tailed grouse habitats, and could provide for successful sharp-tailed grouse reintroduction over a larger area.

Section III: AFFECTED ENVIRONMENT

The area covered by the Proposed Action is an approximately 156,000 acre area in Wallowa County, Oregon (Figure 1) from the town of Enterprise, the Wallowa River, and the Evans Leap Road on the south and west to Haskin Butte, Chesnimnus Creek, and the Zumwalt-Buckhorn Road on the north and east. Over 99% of this area is private land. The area is comprised of approximately 50% grasslands, 22% dry cropland, 10% CRP, 7% riparian, 6% upland shrub/aspen, 3% irrigated cropland, and 2% forest habitats (Hohmann 2000). Most of the dry cropland and CRP habitats are located in approximately the western one-quarter of this area identified as the Leap Area. The remaining three-quarters of the area is predominately grassland habitat and the primary agricultural use is livestock grazing. The Leap Area also is where all the currently known Columbian sharp-tailed grouse in Wallowa County are located.

Columbian sharp-tailed grouse were extirpated from Oregon by the 1960's. The species was gone from Wallowa County by the late 1940's, and the last Columbian sharp-tails probably occurred in Baker County, in northeast Oregon (Crawford and Coggins 2000). Reintroduction of Columbian sharp-tailed grouse in Oregon began in the spring of 1991, when 33 Columbian sharp-tailed grouse were released on The Nature Conservancy property at Clear Lake Ridge, in Wallowa County (Crawford and Coggins 2000). Subsequent releases occurred at Clear Lake Ridge in 1992 and 1993. Released grouse dispersed to the Leap Area approximately 20 km west of Clear Lake Ridge during the first two years of the reintroduction. In 1993, 13 birds were released in the Leap Area, and from 1994 through 1997 all releases occurred in the Leap Area.

From 1991 through 1997 a total of 179 Columbian sharp-tailed grouse was released in Wallowa County. All birds were wild Columbian sharp-tailed grouse from southeastern Idaho. Surveys in 1998 and 1999 located a total of five active leks in the Leap Area; four leks were used during each year (Crawford and Coggins 2000). A total of 26 grouse were observed at leks in 1998 and 25 were observed in 1999. Summer counts after the brood-rearing period were made: 41 grouse were observed in 1998 and 47 were observed in 1999 in the Leap Area. The ODFW estimates there are likely 50-100 Columbian sharp-tailed grouse currently occupying the Leap Area (Coggins, pers. comm. 2000). Lek and summer surveys during 1998 and 1999 indicate that there is a small, self-sustaining population of Columbian sharp-tailed grouse in Wallowa County as a result of reintroduction efforts, but the population is highly vulnerable to extinction due to low numbers of grouse and restricted distribution (Crawford and Coggins 2000).

The long-term survival of this reintroduced population of Columbian sharp-tailed grouse in Wallowa County is dependent on habitat on private lands. Currently, most or all of the sharp-tailed grouse in Wallowa County are using private agricultural lands in the Leap Area. Upland habitats in the Leap Area are predominately small grain (wheat) and CRP fields interspersed with native grasslands. Larger drainages contain shrubs, trees and other riparian vegetation. Crawford and Coggins (2000) reported that grouse in the Leap Area generally used native grassland habitat for nesting and CRP fields for roosting habitat. Native grasslands were likely enhanced by surrounding CRP due to restrictions on grazing. During winters with significant snow accumulation, grouse used riparian habitat with woody vegetation.

Although the eastern three-quarters of the covered area is not known to contain any sharp-tailed grouse currently, extensive surveys have not been conducted. The grassland habitat in this area appears to be potential suitable Columbian sharp-tailed grouse habitat particularly if some habitat enhancement measures were implemented. If grouse could be reestablished in this area it may provide a more long-term, stable habitat base than the cropland areas since grazing activities would likely have less impact than the planting of crops.

Wildlife species that use open grassland and cropland habitats are common in the covered area. These species include: white-tailed deer, ring-necked pheasant, gray partridge, ground squirrels, badgers, song-birds, several species of hawks, eagles, and owls, and a variety of other species. The FWS identified several fish, wildlife, and plant species that are listed under the ESA, or other sensitive species, that may occur in or near the covered area. These species are: gray wolf, Canada lynx, bald eagle, bull trout, steelhead, chinook salmon, Ute ladies'-tresses, and Spalding's catchfly.

Section IV: ENVIRONMENTAL CONSEQUENCES

A variety of wildlife species use habitats in the covered area. Many of these are game and other non-sensitive species, noted above. Effects to these species are expected to be very similar under each of the alternatives. These species are relatively common, and suitable habitats for these species are generally abundant in the area. Although there would likely be some indirect benefits under Alternatives B and C to these species from sharp-tailed grouse habitat protection and enhancement, due to the relatively small acreage that would be affected compared to the entire covered area, the effects between these alternatives and the No Action alternative would be minor or negligible. Since there would be no difference in effects to these wildlife species among the three alternatives, these issues do not warrant further discussion within the scope of this Environmental Assessment. The remainder of this Environmental Consequences section will analyze the effects of the alternatives on listed or other sensitive species, including Columbian sharp-tailed grouse.

Alternative A (No Action):

Under the No Action Alternative, the Agreement would not be approved and the permit would not be issued. No funding for habitat protection/enhancement or incentives for landowners to conserve Columbian sharp-tailed grouse would occur. Agricultural activities would occur within the covered area consistent with all applicable laws. For analysis purposes, and to avoid undue speculation, we assume these agricultural activities would occur similar to current conditions. Approximately 50% of the covered area is grassland, 22% is currently farmed in non-irrigated crops such as wheat, and 10% is in CRP. We expect under the No Action Alternative that grassland areas will continue to be grazed as at present, and dryland crops will continue to be grown to the same extent as present, except as influenced by the CRP program. The amount of dryland crop and CRP habitat will likely change through time as lands move in and out of the CRP program. Those lands moving out of the CRP program would likely be converted to dryland crops. Should Columbian sharp-tailed grouse be listed under the ESA, landowners would have to avoid take of the species. Since avoiding take would depend largely on the location of grouse at that time, it is overly speculative to estimate how avoiding take of sharp-tailed grouse might affect agricultural activities and grouse habitat under the No Action Alternative.

The primary effects to Columbian sharp-tailed grouse from the No Action Alternative would be effects to grassland and CRP habitat. The current population of sharp-tailed grouse in Wallowa County use grassland and CRP habitats within the Leap Area (Crawford and Coggins 2000, Hohmann 2000). The occurrence of CRP habitat likely also has indirect positive effects to interspersed grassland habitat, and subsequently to sharp-tailed grouse, by reducing the intensity of livestock grazing in these areas. Intensive livestock grazing practices can negatively affect sharp-tailed grouse by reducing residual cover necessary for successful nesting activities. To the extent that current grazing intensity negatively affects sharp-tailed grouse in the covered area, similar effects from livestock grazing would be expected to occur in the future under the No Action Alternative. The amount of CRP habitat available will likely change through time depending on changes in enrolment. Land that is no longer enrolled in the CRP program would likely be converted to dryland crop production which would have negative effects to sharp-tailed grouse by reducing grass cover necessary for nesting activities and causing the direct loss of lek sites. Hohmann (2000) noted possible negative effects from land being converted from CRP habitat to dryland crop production. If loss of CRP habitat is great enough, it is possible the sharp-tailed grouse population in the Leap Area could be significantly adversely affected, given the dependency of this population on CRP and grassland habitats in this area.

It is uncertain whether or not the ODFW Columbian sharp-tailed grouse reintroduction program in Wallowa County would continue or not under the No Action Alternative. If landowner concerns about potential ESA regulatory restrictions are great enough, landowners may not allow release of birds on their property or be resistant to sharp-tailed grouse occupying their land. Furthermore, without ESA regulatory assurances, landowners may intentionally avoid creating or enhancing habitat that could attract sharp-tailed grouse to their property such as enrolling in the CRP program. The establishment of a Columbian sharp-tailed grouse population in Wallowa County that is viable over the long-term will: 1) likely require additional release of birds, 2) is greatly dependent on habitat on private land, and 3) will likely not occur unless landowners support the reintroduction effort.

Gray wolves and Canada lynx would not be affected by the No Action Alternative. Neither species is known to occur in the covered area. Both species are wide-ranging, prey-dependent species and the No Action Alternative would affect a relatively small area compared to the range of these species. The No Action Alternative would not likely result in changes in prey species from current conditions, for either gray wolves or Canada lynx.

Bald eagles would also not be affected by the No Action Alternative. Bald eagles currently use the covered area for nesting and wintering activities. The No Action Alternative would not result in changes in eagle prey species or disturbance levels from current conditions, therefore bald eagles would not be affected.

Bull trout, steelhead, and chinook salmon could be affected indirectly under the No Action Alternative from agricultural activities that affect water quality and/or quantity. Ground-disturbing agricultural activities that result in sediment delivery to streams or increase water temperature could negatively impact these fish species. Activities that result in low quantities of water at critical times of the year for fish could also have negative impacts. The No Action Alternative would likely have similar effects to bull trout, steelhead, and chinook salmon as current activities in the covered area.

Effects to Ute ladies'-tresses and Spalding's catchfly under the No Action Alternative would be similar to current conditions. Areas where these species occur within the covered area would be expected to continue supporting these species under the No Action Alternative, since these species have persisted in these areas and agricultural activities are expected to be similar to current activities.

Alternative B: (Limited Area Alternative)

Under the Limited Area Alternative, the covered area for the Agreement and permit would be limited to the Leap Area, where Columbian sharp-tailed grouse currently occur. This area is approximately 36,000 acres in size, and roughly the western one-quarter of the 156,000-acre area considered under the No Action Alternative. Under this alternative, sharp-tailed grouse habitat protection/enhancement measures would be implemented on Participating Landowner's property, and they would receive ESA regulatory assurances under the permit. The Leap Area is predominately dry cropland and CRP habitat with little extensive grassland habitat compared to areas to the east.

The types of agricultural activities that would occur under this alternative would be the same as under the No Action alternative; however, the timing of impacts from those activities on Columbian sharp-tailed grouse would be different than for the No Action alternative. Due to the sharp-tailed grouse habitat protection/enhancement measures under the Agreement, adverse effects to sharp-tailed grouse would be reduced in the short-term (likely the first 10 years) and grouse would benefit from improved habitat conditions. Habitat improvements would generally occur through greater upland residual grass cover and greater improvements in riparian habitat from an increase in shrub and/or deciduous tree cover in riparian areas. Over the long-term, agricultural activities and their effects to sharp-tailed grouse habitat would be similar to the No Action alternative, except that habitat improvements in many cases, especially riparian habitat, are expected to endure for an extended period of time, and continue to benefit sharp-tailed grouse conservation.

Since Participating Landowners would receive ESA regulatory assurances, the ODFW Columbian sharp-tailed grouse reintroduction program would likely continue under this alternative, at least in the Leap Area. Participating Landowners would be assured that if they conduct sharp-tailed grouse habitat protection/enhancement measures on their property and attract grouse to their land, that their future agricultural land use activities will not be adversely affected should the species be listed under the ESA. Providing regulatory assurances to Participating Landowners would likely help ensure continued landowner cooperation in the ODFW sharp-tailed grouse reintroduction program.

Under this alternative, Participating Landowners would be covered under the permit which would authorize some level of incidental take of Columbian sharp-tailed grouse from certain agricultural-related activities, should the species be listed under the ESA. If incidental take did eventually occur, there would be adverse effects to sharp-tailed grouse. Some loss of suitable sharp-tailed grouse habitat would likely occur, probably from conversion of CRP habitat to producing cropland. However, even with impacts from incidental take under the permit, conservation of sharp-tailed grouse would be enhanced compared to the No Action Alternative. Under The Limited Area Alternative, habitat protection and enhancement measures would occur that would not under the No Action alternative. These habitat improvement measures are expected to provide benefits to sharp-tailed grouse over approximately the first ten years of the agreement, and would likely extend beyond ten years in most cases. These sharp-tailed grouse habitat benefits under the Agreement are expected to more than mitigate for any impacts that may result to grouse under the permit.

Negative effects to ESA-listed and other sensitive fish and wildlife species would likely be less under The Limited Area Alternative than under the No Action Alternative. The habitat protection/enhancement measures for Columbian sharp-tailed grouse under this alternative would provide indirect benefits to other sensitive fish, wildlife, and plant species in and adjacent to the Leap Area. Upland and riparian habitat protection measures would have indirect benefits to these sensitive species' habitat by reducing effects of agricultural activities: improving upland grass and riparian habitat, reducing soil erosion and improving water quality, and reducing soil disturbance.

The Limited Area Alternative would not affect gray wolves, Canada lynx, or bald eagles for the same reasons as under the No Action Alternative.

Effects to bull trout, steelhead, and chinook salmon from the Limited Area Alternative would be positive in the short-term (likely the first 10 years) and neutral in the long-term when compared to the No Action Alternative. The proposed sharp-tailed grouse habitat protection/enhancement measures would provide a greater level of upland grass and riparian vegetation cover than the No Action Alternative. These habitat conservation measures would likely provide some indirect benefits to fish species by reducing soil erosion, sediment input to streams, and improving water quality compared to the No Action Alternative. Overall, The Limited Area Alternative would provide some minor conservation benefits to bull trout, steelhead, and chinook salmon.

There would likely be some overall minor conservation benefits to Ute ladies'- tresses and Spalding's catchfly under the Limited Area Alternative, when compared to the No Action Alternative. Ute ladies'- tresses occurs in wetland and riparian areas. The Limited Area Alternative could provide benefits for the species if the plant occurs in areas where riparian protection measures would be implemented for sharp-tailed grouse. Likewise, Spalding's catchfly could receive some benefits under this alternative if it occurs in areas where grouse habitat conservation measures would be implemented. In those areas where either of these plant species occurs and where conservation measures under the Agreement will not be implemented, effects would be similar to those under the No Action Alternative.

Alternative C: (Proposed Action)

Under the Proposed Action Alternative, the covered area for the Agreement and permit would be the same 156,000-acre covered area as under the No Action Alternative. Like the Limited Area Alternative, sharp-tailed grouse habitat protection/enhancement measures would be implemented on Participating Landowner's property, and they would receive ESA regulatory assurances under the permit.

The types of agricultural activities that would occur under the Proposed Action Alternative would be the same as under the No Action alternative; however, like the Limited Area Alternative, the timing of impacts from those activities on Columbian sharp-tailed grouse would be different. Also, like the Limited Area Alternative, due to sharp-tailed grouse habitat protection/enhancement measures under the Agreement, adverse effects to sharp-tailed grouse would be reduced in the short-term and grouse would benefit from improved habitat conditions. However, conservation benefits to sharp-tailed grouse would be greater under the Proposed Action than under the Limited Area Alternative since habitat enhancement could occur over a larger area. Habitat protection/enhancement measures would occur over a broader range of habitats that are important to sharp-tailed grouse than the Limited Area and No Action Alternatives. Specific habitats expected to be enhanced for sharp-tailed grouse under the Proposed Action Alternative are: grasslands, CRP, and riparian. Over the long-term, agricultural activities and their effects to sharp-tailed grouse habitat would be similar to the No Action alternative, except that habitat improvements in many cases, especially riparian habitat improvements, are expected to endure for an extended period of time, and continue to benefit sharp-tailed grouse conservation.

The Proposed Action Alternative would result in the greatest likelihood that the ODFW Columbian sharp-tailed grouse reintroduction program would continue, since the Agreement and permit providing Participating Landowners with ESA regulatory assurances would cover the entire area that would probably be necessary to support a successfully reintroduced sharp-tailed grouse population. As a result, a substantial number of Participating Landowners could be covered under the Agreement and permit, maximizing the chance of continued landowner cooperation with the reintroduction program.

Under the Proposed Action Alternative, Participating Landowners would be covered under the permit which would authorize some level of incidental take of Columbian sharp-tailed grouse. Similar to the Limited Area Alternative, if incidental take did eventually occur, there would be adverse effects to sharp-tailed grouse. Also like the Limited Area Alternative, the primary loss of suitable sharp-tailed grouse habitat would likely occur from conversion of CRP habitat to cropland. However, these impacts to grouse under the permit would be mitigated by the up-front habitat benefits combined with maximizing the chance of continued implementation of the sharp-tailed grouse reintroduction program. Conservation of sharp-tailed grouse would be enhanced under the Proposed Action compared to the Limited Area or No Action Alternatives.

Negative effects to ESA-listed and other sensitive fish and wildlife species would likely be less under the Proposed Action Alternative than under the No Action Alternative. The habitat protection/enhancement measures for Columbian sharp-tailed grouse under the Agreement would provide indirect benefits to other sensitive fish, wildlife, and plant species in and adjacent to the covered area. Upland and riparian habitat protection measures under the Agreement would have indirect benefits to these sensitive species' habitat by reducing effects of agricultural activities: improving upland grass and riparian habitat, reducing soil erosion and improving water quality, and reducing soil disturbance. In general, the Proposed Action would likely provide some greater conservation benefits to these sensitive species than the Limited Area Alternative due to the larger area that conservation measures could potentially be implemented.

The Proposed Action Alternative would not affect gray wolves, Canada lynx, or bald eagles for the same reasons as under the No Action Alternative.

Similar to the Limited Area Alternative, effects to bull trout, steelhead, and chinook salmon from the Proposed Action Alternative would be positive in the short-term (likely the first 10 years) and neutral in the long-term when compared to the No Action Alternative. The proposed sharp-tailed grouse habitat protection/enhancement measures would provide a greater level of upland grass and riparian vegetation cover than the No Action Alternative. These habitat conservation measures would likely provide some indirect benefits to fish species by reducing soil erosion, sediment input to streams, and improving water quality compared to the No Action Alternative. Overall, the Proposed Action Alternative would provide some minor conservation benefits to bull trout, steelhead, and chinook salmon.

There would likely be some overall minor conservation benefits to Ute ladies'- tresses and Spalding's catchfly under the Proposed Action Alternative, when compared to the No Action Alternative. Ute ladies'- tresses occurs in wetland and riparian areas. The Proposed Action Alternative could provide benefits for this plant species if it occurs in areas where riparian protection measures would be implemented for sharp-tailed grouse. Likewise, Spalding's catchfly could receive some benefits under this alternative if it occurs in areas where grouse habitat conservation measures would be implemented under the Proposed Action. In those areas where either of these plant species occurs and where conservation measures under the Agreement will not be implemented, effects would be similar to those under the No Action Alternative. The Proposed Action would likely provide some greater conservation benefits to these plant species than the Limited Area Alternative due to the larger area that conservation measures could potentially be implemented.

TABLE 1. SUMMARY OF IMPACTS TO ENVIRONMENTAL RESOURCES BY ALTERNATIVE

RESOURCES	ALTERNATIVE A (NO ACTION)	ALTERNATIVE B (LIMITED AREA ALTERNATIVE)	ALTERNATIVE C (PROPOSED ACTION)
Air Quality	Minor effects from agricultural equipment and activities	Same as No Action Alternative.	Same as No Action Alternative.
Geology and Soils	Some soil erosion and ground disturbance from agricultural activities.	Same as No Action Alternative.	Same as No Action Alternative.
Water Quality and Quantity	Some effects to water quality and quantity from agricultural activities and irrigation.	Same as No Action Alternative.	Same as No Action Alternative.
Socio-Economic	Social and economic status heavily influenced by agricultural activities.	Same as No Action Alternative.	Same as No Action Alternative.
Cultural and Historic	Agricultural activities resulting in ground disturbance have occurred for many years; additional effects likely minor.	Same as No Action Alternative.	Same as No Action Alternative.
Recreation	Most of area is private land and not open for public recreation; negligible effects.	Same as No Action Alternative.	Same as No Action Alternative.
Visual	Area would remain in rural, agricultural setting, so no impacts.	Same as No Action Alternative.	Same as No Action Alternative.
Biological	Agricultural activities generally continue as at present. Negligible effects to non-sensitive fish and wildlife species. Some effects to sensitive fish, wildlife and plants from water quality impacts and ground disturbing activities. No habitat protection or enhancement for sharp-tailed grouse or regulatory assurances for landowners. Sharp-tailed grouse dependent on ongoing agricultural activities.	Effects to non-sensitive species same as No Action. Negative effects to sensitive species in Leap Area less in short-term, but similar over long-term compared to No Action. Some sharp-tailed grouse habitat improvement and support of the sharp-tailed grouse reintroduction effort by private landowners only in the Leap Area.	Effects to non-sensitive species same as No Action. Negative effects to sensitive species in covered area less in short-term, and similar over long-term compared to No Action. Moderate sharp-tailed grouse habitat improvement and support of the sharp-tailed grouse reintroduction effort by private landowners over a large area.

Section V: COMPLIANCE, CONSULTATION AND COORDINATION WITH OTHERS

The FWS has coordinated development of the Agreement with the ODFW. The FWS will provide the Agreement and this Environmental Assessment to the public for review and comment for a period of 30 days, consistent with pertinent ESA and National Environmental Policy Act regulations and policy. The FWS will send copies of the Agreement and this Environmental Assessment directly to interested individuals including, some Wallowa County landowners, Wallowa County Commissioners, and congressional representatives.

Section VI: REFERENCES

Crawford, J.A. and V.L. Coggins. 2000. The Reestablishment of Columbian Sharp-tailed Grouse Into Oregon. Unpublished Report, January 24, 2000. 80pp.

Hohmann, J. 2000. Sharp-tailed grouse in Wallowa County, Oregon - Spring 2000. Unpublished report submitted to the U.S. Fish and Wildlife Service, June 25, 2000. 6pp.

Oregon Department of Fish and Wildlife and U.S. Fish and Wildlife Service. 2000. Candidate conservation agreement with assurances for Columbian sharp-tailed grouse between the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service. July, 2000. 17pp.

Type: Open: September 6, 2000; 8:30 a.m.–Noon, Closed: September 6, 2000; Noon–4:30 p.m., Closed: September 7, 2000; 8:30 a.m.–3:30 p.m.

Contact: Donna M. Bush, Ph.D., Executive Secretary, Telephone: (301) 443–6014, and FAX: (301) 443–3031.

Dated: July 25, 2000.

Toian Vaughn,
Committee Management Officer, Substance Abuse and Mental Health, Services Administration.

[FR Doc. 00–19487 Filed 8–1–00; 8:45 am]

BILLING CODE 4162–20–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Draft Environmental Assessment on Proposed Special Regulations for the Preble's Meadow Jumping Mouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of a draft environmental assessment for proposed special regulations for the Preble's meadow jumping mouse.

SUMMARY: This Notice advises the public of the availability of a draft environmental assessment on proposed special regulations for the Preble's meadow jumping mouse (*Zapus hudsonius preblei*). These regulations apply within the range of the species which includes portions of Boulder, Douglas, El Paso, Jefferson, and Weld counties in Colorado and Laramie and Goshen counties in Wyoming.

The proposed special regulations identify specific locations and situations under which take of the Preble's meadow jumping mouse would not be prohibited by the Endangered Species Act. This environmental assessment considers the biological, environmental, and socio-economic effects of these proposed regulations. The assessment also evaluates four alternative actions and their potential impact on the environment. Written comments or recommendations concerning the proposal are welcomed and should be sent to the address below (see **ADDRESSEES**).

DATES: To be considered, written comments and materials should be received on or before September 1, 2000. All comments received by the end of this comment period will be considered in preparation of a Finding of No Significant Impact. All comments received on an environmental assessment become part of the official

public record. Requests for such comments will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's National Environmental Policy Act regulations (40 CFR 1506.6(f)). When requested, comment letters with the names and addresses of the individuals who wrote the comments will generally be provided. However, the telephone number of the commenting individual will not be provided in response to such requests to the extent permissible by law. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. If you wish to withhold your name and/or address, you must state this prominently at the beginning of your comments.

ADDRESSES: Comments and requests for copies of the assessment should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, 755 Parfet Street, Suite 61, Lakewood, Colorado 80215, telephone (303) 274–2370.

SUPPLEMENTARY INFORMATION The Preble's meadow jumping mouse is known to occur only in portions of Colorado and Wyoming. The final rule listing the Preble's as a threatened species under the Endangered Species Act was published in the **Federal Register** on May 13, 1998 (63 FR 26517). Section 4(d) of the Endangered Species Act (U.S.C. Section 1533) provides that whenever a species is listed as a threatened species, the Secretary of the Department of the Interior will issue regulations deemed necessary and advisable to provide for the conservation of the species. On December 3, 1998, we proposed special regulations for the Preble's meadow jumping mouse under Section 4(d) of the Act and published them in the **Federal Register** (63 FR 66777), and at the same time, a public review period on the proposed special regulations was initiated. The public comment period closed on February 1, 1999. We reopened the public comment period on March 16, 1999, (64 FR 12924) and it closed on April 30, 1999.

In these regulations, we proposed to designate specific locations known to be occupied or potentially occupied by this species as Mouse Protection Areas or Potential Mouse Protection Areas. Section 9 prohibitions against take of this species would not apply to activities occurring outside of these designated areas, but would remain applicable to activities conducted within these designated areas. In addition, we proposed that Section 9

prohibitions against take of the species would not apply to four categories of activities that might occur within the species' habitat. These four categories of activities for which take of the species was exempted are—(1) rodent control activities, (2) ongoing agricultural activities, (3) existing landscaping activities, and (4) existing uses of perfected water rights. We also described a fifth range-wide exemption pertaining to periodic maintenance of existing water supply ditches. We considered this fifth exemption but did not propose it.

We have prepared an environmental assessment of the proposed special regulations for the Preble's meadow jumping mouse and other alternatives that we considered and, at this time, we would like make this assessment available for public review and comment.

Dated: July 26, 2000.

Elliott Sutta,

Acting Deputy, Regional Director, Denver, Colorado.

[FR Doc. 00–19468 Filed 8–1–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for a Permit to Enhance the Survival of the Columbian Sharp-tailed Grouse in Wallowa County, Oregon Through a Candidate Conservation Agreement With Assurances

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The Oregon Department of Fish and Wildlife (ODFW) has applied to the Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended. The permit application includes a proposed Candidate Conservation Agreement with Assurances (Agreement) between the ODFW and the Service. The Agreement and permit application are available for public comment.

The purpose of the Agreement is for the ODFW and the Service to implement conservation measures for the Columbian sharp-tailed grouse (*Tympanuchus phasianellus*) in Wallowa County, Oregon, in support of ODFW's on-going efforts to reintroduce this species to areas that it historically

occupied. The conservation measures would be implemented by the ODFW, Service, and by Participating Landowners, and would generally consist of continued implementation of ODFW's Columbian sharp-tailed grouse reintroduction program, and protection and enhancement of sharp-tailed grouse habitat. Consistent with the Service's Candidate Conservation Agreement with Assurances Final Policy, the Agreement is intended to facilitate the conservation of Columbian sharp-tailed grouse by giving the State of Oregon and cooperating private landowners incentives to implement conservation measures. Participating Landowners would receive regulatory certainty concerning land use restrictions that might otherwise apply should the Columbian sharp-tailed grouse become listed under the Endangered Species Act. Participating Landowners, with property in an approximately 161,000-acre area, could sign up under the Agreement and the associated permit through a Certificate of Inclusion. The proposed term of the Agreement and the permit is 20 years. The Service has prepared an Environmental Assessment for approval of the Agreement and issuance of the permit.

We request comments from the public on the permit application, Agreement, and the Environmental Assessment. All comments we receive, including names and addresses, will become part of the administrative record and may be released to the public.

DATES: Written comments should be received on or before September 1, 2000.

ADDRESSES: Comments should be addressed to Dennis Mackey, Project Biologist, Fish and Wildlife Service, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709 (telephone: 208/378-5267; facsimile: 208/378-5262).

FOR FURTHER INFORMATION CONTACT: Dennis Mackey at the above address or telephone 208/378-5267.

SUPPLEMENTARY INFORMATION:

Document Availability

You may obtain copies of the documents for review by contacting the individual named above. You also may make an appointment to view the documents at the above address during normal business hours. The documents are also available electronically on the World Wide Web at <http://www.fws.gov/r1srbo>.

Background

Under a Candidate Conservation Agreement with Assurances, participating landowners voluntarily

implement conservation activities on their property to benefit species that are proposed for listing under the Endangered Species Act, candidate species, or other sensitive species. Candidate Conservation Agreements with Assurances encourage private and other non-Federal property owners to implement conservation efforts and reduce threats to unlisted species by assuring them they will not be subjected to increased property use restrictions if the species is listed in the future under the Endangered Species Act. Application requirements and issuance criteria for enhancement of survival permits through Candidate Conservation Agreements with Assurances are found in 50 CFR 17.22(d) and 17.32(d).

On October 26, 1999, the Service found that listing the Columbian sharp-tailed grouse under the Endangered Species Act may be warranted, and initiated a review of the species' status. The Columbian sharp-tailed grouse was extirpated from Oregon by the 1960's. The species persisted in Wallowa County until the late 1940's, and the last Columbian sharp-tails probably occurred in Baker County in northeast Oregon. Reintroduction of the Columbian sharp-tailed grouse in Oregon began in the spring of 1991. From 1991 through 1997, ODFW released a total of 179 Columbian sharp-tailed grouse in Wallowa County. Currently all known Columbian sharp-tailed grouse occur on private land. To date, landowners have been supportive of the Columbian sharp-tailed grouse reintroduction program, have cooperated with ODFW, and are providing habitat to support the birds. The ODFW is concerned that reintroduction efforts could result in land-use restrictions on cooperating landowners if this species is listed under the Endangered Species Act. Should this happen, landowners would have a disincentive to cooperate in future reintroduction efforts or to provide suitable grouse habitat. As a result of this potential regulatory concern of landowners, ODFW has developed a Candidate Conservation Agreement with Assurances for the Columbian sharp-tailed grouse in cooperation with the Service, and has applied to the Service for a permit under section 10(a) of the Endangered Species Act, which would authorize future incidental take of the birds by cooperating landowners.

Under the Agreement and permit, Participating Landowners would provide certain Columbian sharp-tailed grouse habitat protection or enhancement measures on their lands. Protection and enhancement measures

will be directed towards sharp-tailed grouse lek, nest, roost, and/or winter habitat. If the Columbian sharp-tailed grouse is listed under the Endangered Species Act, and after a Participating Landowner has provided the agreed upon habitat conditions for the specified period of time, the permit would authorize incidental take of Columbian sharp-tailed grouse as a result of the landowner's agricultural-related activities: crop cultivation and harvesting, livestock grazing, and farm equipment operation.

We are providing this notice pursuant to section 10(c) of the Endangered Species Act and implementing regulations for the National Environmental Policy Act (40 CFR 1506.6). We will evaluate the permit application, associated documents, and comments submitted thereon to determine whether the permit application meets the requirements of section 10(a) of the Endangered Species Act and National Environmental Policy Act regulations. If we determine that the requirements are met, we will sign the Agreement and issue an enhancement of survival permit under section 10(a)(1)(A) of the Endangered Species Act to ODFW for take of Columbian sharp-tailed grouse incidental to otherwise lawful activities in accordance with the terms of the Agreement. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

Dated: July 14, 1999.

Rowan W. Gould,
Deputy Regional Director, Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 00-19469 Filed 8-1-00; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Agency Information Collection Activities; Submission to Office of Management and Budget

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Request, "Documented Petitions for Federal Acknowledgment as an Indian Tribe," is submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, for review and extension of this information collection.